



SMGB Information Report 2010-07

STATE MINING AND GEOLOGY BOARD

A Review of Issues Pertaining to Idle Mines Under the Surface Mining and Reclamation Act



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Department of Conservation
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held on December 9, 2010, and January 13, 2011.

This report does not set forth policy, but rather presents information that the SMGB
considers in setting policy.



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A Review of Issues Pertaining to Idle Mines Under the Surface Mining and Reclamation Act

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ABSTRACT

The State Mining and Geology Board (SMGB) has reviewed relevant issues pertaining to idle mines as classified under the Surface Mining and Reclamation Act of 1975 (SMARA). As of 2009, there were 1,070 reporting surface mines in California. In both 2008 and 2009, 100 mines reported as “Active” but with zero production. Statute defines these mines as “abandoned” at this point, of which 80 of these mines had no production for at least ten years. Another 66 mines reported as “Closed- No Intent to Resume” in 2009, but have not yet reclaimed. Currently, 97 mines should have an approved SMARA lead agency Interim Management Plan (IMP) but only 35 have them, and 35 lead agencies (more than 28% of all lead agencies in California) had mines that required IMPs but did not have them in place. Idle mines, are defined in SMARA, as those surface mining operations where 1) mineral production has fallen more than 90% from the previous maximum annual rate for a period of one year or more, and 2) where there is an intent to resume surface mining operations at a future date. Lead agency enforcement of the idle mine regulations is minimal. Several important issues have been identified in the classification and treatment of idle mines. A synopsis of these issues, and proposed recommendations for further consideration, are presented in this document.

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INTRODUCTION

A surface mining operation is “idle” when production is curtailed by more than 90% of the previous maximum annual mineral production for a period of one year or more, and where there is intent to resume surface mining operations at a future date (Public Resources Code (PRC) Section 2727.1). It is important to note that a surface mine is not classified as idle if there is no intent to resume mining operations, In this case, the mine is classified as active and undergoing reclamation, or considered abandoned. The State Mining and Geology Board (SMGB) has developed guidelines and principles and an IMP form when the SMGB serves as a SMARA lead agency. These guidelines and principles were adopted by the SMGB in November 1994, and revised in March 1996.



Figure 1. As of 2005, there are an estimated 277 mines reported as idle in California. Such sites typically are characterized by a low level or no surface mining activity. This image is of Bullards Quarry, El Dorado County.



Figure 2. The Marin Quarry located in El Dorado County is an example of a well maintained idle mine site.

The SMGB has developed an Interim Management Plan (IMP) form for use by operators under its jurisdiction when serving as a SMARA lead agency. At its regular business meeting held on November 9, 2006, the SMGB approved the IMP form (Appendix A) as being consistent with the requirements set forth under PRC Section 2772(a) which states:

“The reclamation plan shall be filed with the lead agency, on a form provided by the lead agency, by any person who owns, leases, or otherwise controls or operates on all, or any portion of any, mined lands, and who plans to conduct surface mining operations on the lands.”

An IMP is considered an amendment to an approved reclamation plan, and as noted above, an IMP must be submitted on a form developed and provided by the lead agency. Regarding IMPs, PRC Section 2770(h) states:

(1)“Within 90 days of a surface mining operation becoming idle, as defined in Section 2727.1, the operator shall submit to the lead agency for review and approval, an interim management plan. The review and

approval of an interim management plan shall not be considered a project for purposes of Division 13 (commencing with Section 21000). The approved interim management plan shall be considered an amendment to the surface mining operation's approved reclamation plan, for purposes of this chapter. The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this chapter, including, but not limited to, all permit conditions.

(2) The interim management plan may remain in effect for a period not to exceed five years, at which time the lead agency shall do one of the following:

(A) Renew the interim management plan for another period not to exceed five years, if the lead agency finds that the surface mining operator has complied fully with the interim management plan.

(B) Require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.

(3) The financial assurances required by Section 2773.1 shall remain in effect during the period that the surface mining operation is idle. If the surface mining operation is still idle after the expiration of its interim management plan, the surface mining operation shall commence reclamation in accordance with its approved reclamation plan.

(4) Within 60 days of the receipt of the interim management plan, or a longer period mutually agreed upon by the lead agency and the operator, the lead agency shall review and approve the plan in accordance with its ordinance adopted pursuant to subdivision (a) of Section 2774, so long as the plan satisfies the requirements of this subdivision, and so notify the operator in writing. Otherwise, the lead agency shall notify the operator in writing of any deficiencies in the plan. The operator shall have 30 days, or a longer period mutually agreed upon by the operator and the lead agency, to submit a revised plan.

(5) The lead agency shall approve or deny approval of the revised interim management plan within 60 days of receipt. If the lead agency denies approval of the revised interim management plan, the operator may appeal that action to the lead agency's governing body, which shall schedule a public hearing within 45 days of the filing of the appeal, or any longer period mutually agreed upon by the operator and the governing body.

(6) Unless review of an interim management plan is pending before the lead agency, or an appeal is pending before the lead agency's governing body, a surface mining operation which remains idle for over one year after becoming idle as defined in Section 2727.1 without obtaining approval of an interim management plan shall be considered abandoned and the operator

shall commence and complete reclamation in accordance with the approved reclamation plan.

(i) Any enforcement action which may be brought against a surface mining operation for operating without an approved reclamation plan, financial assurance, or interim management plan, shall be held in abeyance pending review pursuant to subdivision (b), (c), (d), or (h) or the resolution of an appeal filed with the board pursuant to subdivision (e), or with a lead agency governing body pursuant to subdivision (h)."

The IMP form serves several purposes including:

1. Ensure consistency: IMPs submitted to the SMGB are currently received in various formats based on the preference of the author(s) who prepares the IMP. Development of a form or format facilitates consistency, which will assist both the individual(s) preparing the IMP and the reviewers.
2. Encourage completeness: IMP requirements are vague in both the statute and regulations. In addition, IMPs received by the lead agency commonly lack specific information. Providing a clear and concise form or format of the required elements will encourage the preparation of IMPs that include all required information.
3. Facilitate review: An approved IMP form or format facilitates review by the SMGB and the Director pursuant to SMARA PRC Section 2772(a) by standardizing the plan contents. Currently, there is no standard checklist or other guidance that addresses form structure, minimum standards, or format.
4. Improve quality: The overall quality of IMPs received by the SMGB, when the SMGB serves as a SMARA lead agency, would be significantly improved by adopting minimum standards and guidelines. For example, maps are occasionally submitted with IMPs in a variety of scales, depicting various features, with no consistent legend or orientation requirements. A form or format would lead to maps being drawn to an appropriate scale depicting pertinent information, with a standardized legend.

The IMP form approved by the SMGB is divided into three parts: introductory information, the standard form to be completed, and instructions for completion of elements of the form.

Legislative Intent

A surface mining operation is classified as “idle” when production has been “*curtail operations by more than 90 percent of the operation’s previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date*” (PRC Section 2727.1).

The status of an IMP in considering whether a surface mining operation is abandoned or not is clarified by PRC Section 2770(h)(6), which states:

“Unless review of an interim management plan is pending before the lead agency, or an appeal is pending before the lead agency’s governing body, a surface mining operation which remains idle for over one year after becoming idle as defined in Section 2727.1 without obtaining approval of an interim management plan shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plan.”

The intent of the “90% curtailment of maximum past production” threshold is to encourage operators to commence reclamation of mines that are not likely to operate again in the foreseeable future. Continuing to operate mines at production levels of less than 10% of their maximum commercial level, in some cases for the purpose of forestalling commencement of the reclamation, is thereby discouraged. The statute requires mine operators to submit an IMP for any mines in which material extraction and production falls below 10% of the maximum annual production rate (Mineral production is defined in Section 3695 of the SMGB SMARA regulations). Upon approval of an IMP, an idle mine will be authorized to operate and produce at reduced levels where it has an intent to resume full operations.

In summary, an IMP approved by the lead agency can authorize a mine operator to mine at a production rate below the 10% of maximum level.

Current Statutory Remedy

Review of proposed IMPs is conducted by the lead agency (City, County, or SMGB). As the IMP must address local permitting issues, any IMP for a mine located in a jurisdiction where the SMGB serves as the SMARA lead agency must be approved by both the SMGB and the local lead agency.

Should economic conditions become unfavorable (i.e., production at a mine drops below 10% of the maximum annual rate), the surface mining operation would become idle, and within 90 days of becoming idle, operator can obtain an approved IMP. The approved IMP allows for the operator to continue the surface mining operation, and the need for reclamation to commence can be put on hold.

When a mine becomes abandoned pursuant to PRC 2770(h)(6), the operator is obligated to commence reclamation in accordance with the approved reclamation plan. At the time reclamation is commenced, if an operator decided to re-activate the abandoned mine, a new reclamation plan could be approved by the SMARA lead agency and a new local permit to mine may have to be granted by the local land use authority. An updated financial assurance would also have to be posted with the SMARA lead agency and the Department of Conservation.

Because an abandoned mine is required by statute to be reclaimed per the approved plan, any re-commencement of mining activities must be treated as an entirely new mining operation. Therefore, the existing mine operator could pursue approval of a new reclamation plan. This approach has been used in Kern County, and although not specified in statute, seems to be the most practical way to resume mining without violating the law. Although this new reclamation plan could conceivably be similar to the original approved reclamation plan before the site became idle and then abandoned (if it met current reclamation standards), the operator may need to start the process from the beginning (i.e., obtain a permit to mine, obtain approval of a reclamation plan and financial assurance, and provide for lead agency completion of an environmental analysis).

PREVIOUS DISCUSSIONS

Preliminary Assessment of Lead Agency IMP Compliance

There are approximately 57 Counties and 50 Cities that are recognized as lead agencies pursuant to SMARA. A lead agency is defined under PRC Section 2728 as *“the city, county, San Francisco Bay Conservation and Development Commission, or the board [SMGB] which has the principal responsibility for approving a reclamation plan pursuant to this chapter.”* A synopsis of overall lead agency performance in regards completion of mine inspections, review of financial assurances and enforcement was presented to the SMGB at its January 11, 2007 regular business meeting. The status of lead agency performance was based, in part, on a review of data and information supplied by surface mining operators as part of their annual reporting requirements, and subsequently incorporated in the SMARA database maintained by OMR.

As described above, a mine operator is required to obtain approval of an IMP for any mine that has been idle or closed for more than one year. Failure to obtain an IMP results in the facility being deemed abandoned with the commencement of site reclamation required.

In review of the 2009 Mining Operation Annual Reports, there were 97 mines reported as “idle” in the SMARA database. All but six of these mines had production in the last ten years. An approved IMP should be on file for all of the idle mines. Only 35 of the 91 mines with production reported an approved IMP in 2009. Thus, potentially 56 mines that failed to file an IMP could have run afoul of the abandoned definition in

statute. Additionally, lead agencies may have incorrectly approved IMPs for mines that were abandoned under statutory definitions.

In addition to the 97 mines listed as idle, 66 mines are identified as “Closed – No intent to Resume” in the OMR database but have not yet been reclaimed. A further 180 mines reported as “active” with no production. Under statutory definitions, it is likely that most of these mines are misreported, and should actually be reported as “idle”. One hundred of these mines had no production in either 2008 or 2009, and are likely deemed “abandoned” by statute.

A significant problem for SMARA enforcement is that 80 of the “active-no production” mines have not had production for at least 10 years, and most have never had any post-1991 production. Despite SMARA definitions for “idle” status, the operators of these mines have failed to report correctly or reclaim their sites as required by law. Lead agencies have failed to notify these operators of the correct status of their mines, or require reclamation of these mines.

It should be noted that legislation (Senate Bill 668, Kuehl, Chapter 869, Statutes of 2006), effective January 1, 2007, amended SMARA and allowed lead agencies to receive mineral production data from surface mine operators. Prior to that time, production data was not included in annual report copies sent to lead agencies, and could only be provided by request from OMR. While several lead agencies routinely requested production data, most did not.

Interim Management Plans (IMP) in place when required - 2005

57 Counties

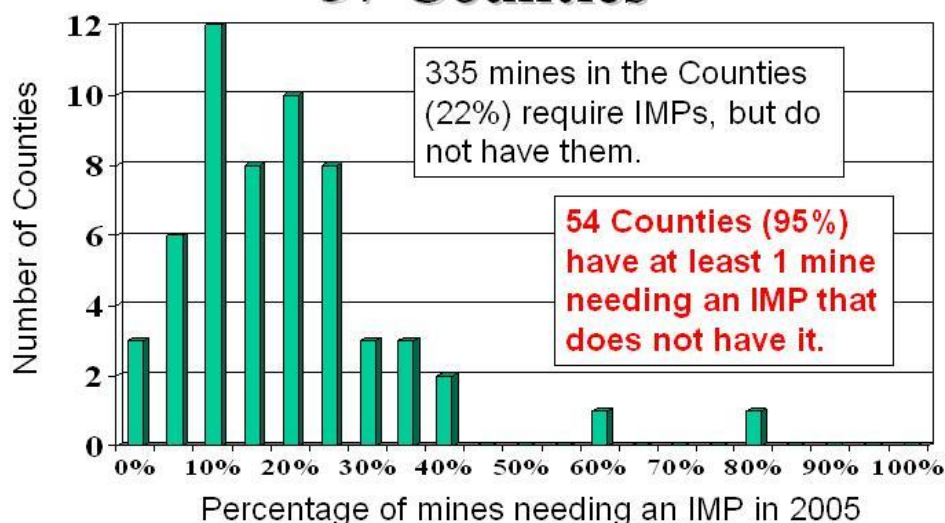


Figure 3. Percentage of mines requiring an IMP in 2005 for the 57 counties serving in the capacity of a SMARA lead agency (SMGB Information Report 2007-01).

Lead Agency Interim Management Plan (IMP) Enforcement for 2005

50 Cities

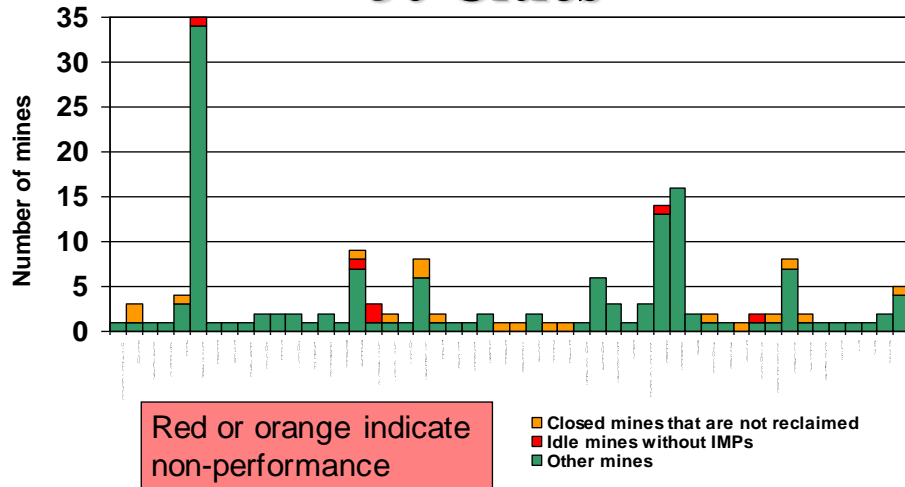


Figure 4. Percentage of mines requiring an IMP in 2005 for the 50 cities serving in the capacity of a SMARA lead agency (SMGB Information Report 2007-01).

At the March 8, 2007 meeting of the SMGB's Surface Mining Standards Committee, OMR reported:

- For 2005, 277 idle mines reported active status;
- 53 mines reported low (idle) production in 2005, but high (active) production in 2004;
- 224 mines reported low (idle) production in both 2004 and 2005; and,
- 133 mines reported zero production in both 2004 and 2005.

SMGB's Principles for Idle Mines

In November 1994 the SMGB adopted guidelines and principles for addressing idle mining operations under SMARA. These guidelines and principles were revised in March 1996 (Appendix A). When these guidelines and principles were adopted by the SMGB, three hypothetical scenarios were set forth. These scenarios reflected

conditions where the need for an IMP was triggered. However, these scenarios did not reflect what occurs when a site is idle by definition is deemed idle, and no IMP is filed.

At its April 12, 2007 meeting, the Surface Mining Standards Committee considered additional scenarios which were consistent with current statute and regulations, and reflect situations where a surface mining operation did not prepare and file an IMP upon becoming idle.

Presented below are five additional scenarios (Scenarios 4 through 8) reflecting situations where no IMP was filed within the statutory time period. These scenarios serve a purpose in raising questions over the efficiency of the current statutory scheme relating to the definition of “idle.”

Scenario No. 4: XYZ mine produced 450,000 and 385,000 tons in 1998 and 1999 respectively. Production for years 2000-2004 was less than 10% of the previous maximum annual mineral production. Production for years 2005-2007 was 250,000, 350,000, and 275,000 tons, respectively. The mining operation met the statutory definition of idle during years 2000-2004, but no IMP was submitted by the operator nor approved by the lead agency. The mine triggered the statutory definition of abandoned in year 2002. Rather than commencing reclamation as required by (SMARA Section 2770(h)(6)), the operator subsequently increased production levels and recommenced active mining operations. This new operation is purportedly operating under its original use permit and approved reclamation plan.

Analysis: XYZ mine was idle for more than one year after becoming idle without obtaining approval of an IMP. The operator should have applied for and obtained approval for an IMP within 90 days of the operation becoming idle as defined in SMARA if there was an intent to resume operations in the future. According to SMARA Section 2770(h)(6), the mine became abandoned sometime during 2002 (remained idle more than one year after becoming idle without obtaining approval of an IMP). Upon becoming abandoned, SMARA provides only one option: commence and complete reclamation in accordance with the approved reclamation plan. Any vested rights that may have existed or been claimed for a mine abandoned in this fashion may be lost. Currently, XYZ mine is operating without a valid approved reclamation plan. In order to legally operate, the mine operator must obtain a new approved reclamation plan, and post a revised financial assurance.

Scenario No. 5: Golden XYZ mine produced 450,000, 385,000, 250,000, and 100,000 ounces of gold in 1998- 2001, respectively, and exhausted the reserves in Pit A. The mine receives approval for an expansion (Pit B) and commences to remove overburden in 2002-2003 of approximately 500,000 tons annually. Gold production for this period; however, falls

below 10% of the previous maximum annual production. Gold production resumes in years 2004-2007 at over 250,000 ounces annually.

Analysis: Golden XYZ mine was idle for more than one year without obtaining the approval of an IMP. The operator should have applied for and obtained approval for an IMP within 90 days of the operation becoming idle (curtailed production by more than 90% of the previous 450,000 oz. maximum annual mineral production with the intent to resume mining in the future). According to SMARA Section 2770(h)(6), the mine became abandoned sometime during 2003. Upon becoming abandoned, SMARA provides only one option: commence and complete reclamation in accordance with the approved reclamation plan.

Rather than commence reclamation, mining operations resumed at the XYZ mine.

Scenario No. 6: Aggregate XYZ mine produces 30,000, 40,000, 45,000, and 40,000 tons of aggregate in years 1999-2002. In 2003 the operator gets a one-year contract with Department of Water Resources for levee repairs and produces 450,000 tons. Production returns to “normal” levels in years 2004-2007 when 44,000, 42,000, 36,000, and 42,000 tons respectively are produced.

Analysis: Aggregate XYZ mine became idle in 2005, one year after producing less than 90% of the previous maximum annual production (450,000 tons). According to SMARA Section 2770(h)(6), the mine became abandoned sometime during 2006 (and remained idle more than one year after becoming idle without obtaining approval of an IMP). Upon becoming abandoned, SMARA provides only one option: commence and complete reclamation in accordance with the approved reclamation plan. Rather than commence reclamation, the Aggregate XYZ mine continued mining at “normal levels.”

Scenario No. 7: A large County that is sparsely populated has many miles of roads to maintain. The County has 10 widely dispersed borrow sites from which aggregate is mined intermittently by the County Road Department for road repairs. The borrow sites have been used for many years, but production may be only 5,000-10,000 tons once every three to eight years. The reclamation plan for each of the borrow sites anticipates that the borrow pits will be idle much of the time and includes an IMP. SMARA requires that the County approve an IMP for each borrow site when it becomes idle (generally, one year after each mining event for each of the 10 borrow sites). The County finds that tracking the active/idle status and changes in reporting fees for each of the 10 sites unnecessarily burdensome.

Analysis: To avoid a borrow pit from becoming abandoned, the County must approve an IMP for each borrow pit one year after producing less than 90% of the previous maximum annual production and renew the IMP every five years the pit remains idle. The IMP included in the original reclamation approval is not valid unless it is re-approved within 90-days of the pit becoming idle. A pit would become active after the next mining event of more than 10% of the previous maximum annual production.

Scenario No. 8: Quarry XYZ produced an annual maximum 450,000 tons of limestone in 1998. Production dropped to 42,000 and 36,000 tons during 1999 and 2000. No production was reported in subsequent years and there is no intent to resume mining. No IMP was approved.

Analysis: Quarry XYZ mine became idle in 1999/2000, one year after producing less than 10% of the previous maximum annual production (450,000 tons). According to SMARA Section 2770(h)(6), the mine became abandoned sometime during 2000/2001 (and remained idle more than one year after becoming idle without obtaining approval of an IMP). Upon becoming abandoned, SMARA provides only one option: commence and complete reclamation in accordance with the approved reclamation plan. Should the operator fails to reclaim the site, the lead agency should use the financial assurance to complete reclamation in accordance with the approved reclamation plan.

Should another operator (or the same operator) want to re-open the mine, the operator would need to apply for a permit, reclamation plan approval, and approval of a financial assurance.

May 10, 2007, Committee Meeting: OMR reported that production information for 1,029 mines that reported an "Active" status in 2005 was reviewed. Approximately 316 of these "Active" mines reported production levels that might suggest an "Idle" status, and OMR was considering practical steps that could be taken to ensure that 1) idle mines have approved IMPs in place, and 2) abandoned mines are required to commence and complete reclamation.

CONSIDERATIONS AND HYPOTHETICAL SCENARIOS

Definitions

Idle Mine: A surface mining operation is "idle" when production is curtailed by more than 90% of the previous maximum annual mineral production for a period of one year or more, and where there is intent to resume surface mining operations at a future date (PRC Section 2727.1).

Surface Mining Operations: Pursuant to PRC Section 2735, "Surface mining operations" means all, or any part of, the process involved in the mining of minerals on mined lands

by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to:

- (a) Inplace distillation or retorting or leaching.
- (b) The production and disposal of mining waste.
- (c) Prospecting and exploratory activities.

Abandoned Mine: An abandoned mine is defined pursuant to PRC Section 2770(h)(6) as a surface mining operation that remains idle for over one year after becoming idle as defined in PRC Section 2727.1 without obtaining approval of an IMP unless review of an IMP is pending before the lead agency, or an appeal is pending before the lead agency's governing body. PRC Section 2770(h)(6) adds that once a mine site is considered abandoned, the operator shall commence and complete reclamation in accordance with the approved reclamation plan. Thus, in order for a mine site to become abandoned, it must be idle for over one year without submittal of an IMP by the operator. The site is not abandoned if an IMP has been submitted, and is under review or appeal.

IMPs: Pursuant to PRC Section 2770(h)(1), within 90 days of a surface mining operation becoming idle, as defined in Section 2727.1, the operator shall submit to the lead agency for review and approval, an IMP. The IMP is an amendment to the approved reclamation plan, and review and approval of an IMP is not subject to review under the California Environmental Quality Act (CEQA). The IMP provides measures the operator must implement to maintain the site in compliance with SMARA. The IMP may remain in effect for a period not to exceed five years, at which time the lead agency may renew the IMP for another period not to exceed five years, if the operator has complied fully with the IMP. A chronology for submittal and approval of an IMP, and non-submittal, is illustrated in Figures 5 and 6.

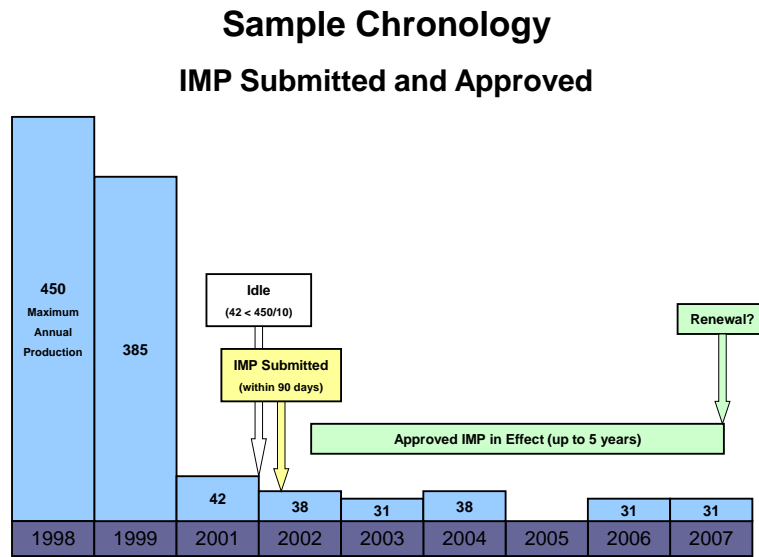


Figure 5. Hypothetical sample chronology for IMP submittal and approval.

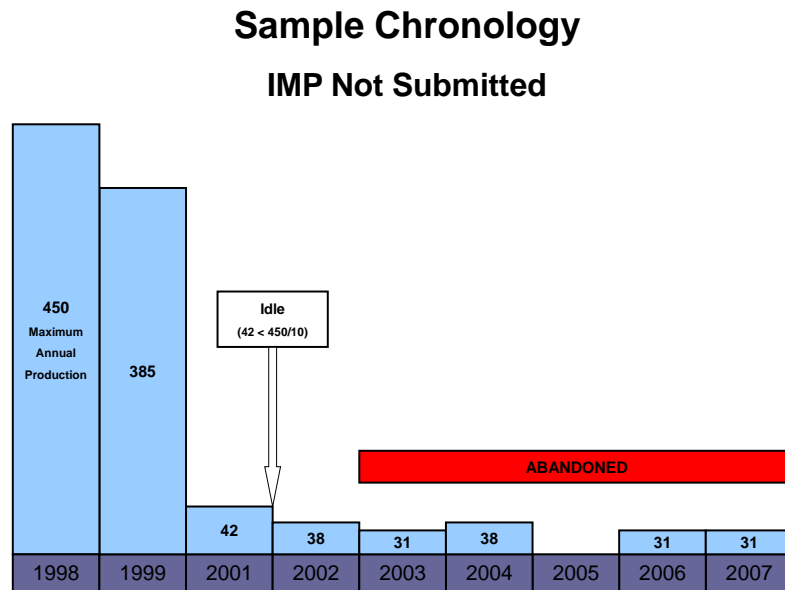


Figure 6. Hypothetical sample chronology for non-submittal of an IMP.

IMP Hypothetical Compliance Scenarios

Six IMP compliance scenarios are presented to illustrate some of the problems associated with idle mines. These compliance scenarios pertain to historic abandonment, surface mining activity unrelated to production, baseline maximum annual production amounts, borrow pits, late IMP submittals and long-term abandonment.

Figures 7 through 12 show the number of mines that may become idle or abandoned under different hypothetical scenarios. With historic abandoned mines, idle status would be initiated in 2001 in the example presented in Figure 7. Absent an approved IMP, the mine in this example would have an abandoned status in 2003.

In Figure 8, the determination of idle status reflects surface mining activity unrelated to production. In this case, idle status would be initiated in 2003. Absent an approved IMP, the surface mining operation in this example would have an abandoned status in 2005.

Historic Abandonment

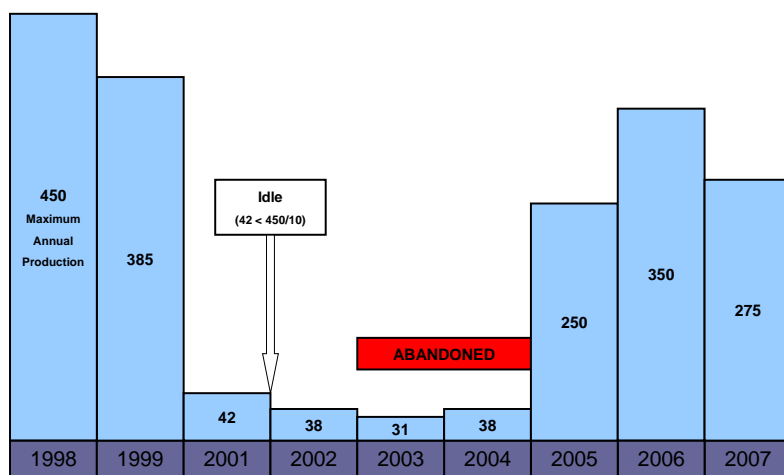


Figure 7. Hypothetical scenario of mine that has become historically abandoned, regardless of whether it was intentional or not.

Surface Mining Activity Unrelated to Production

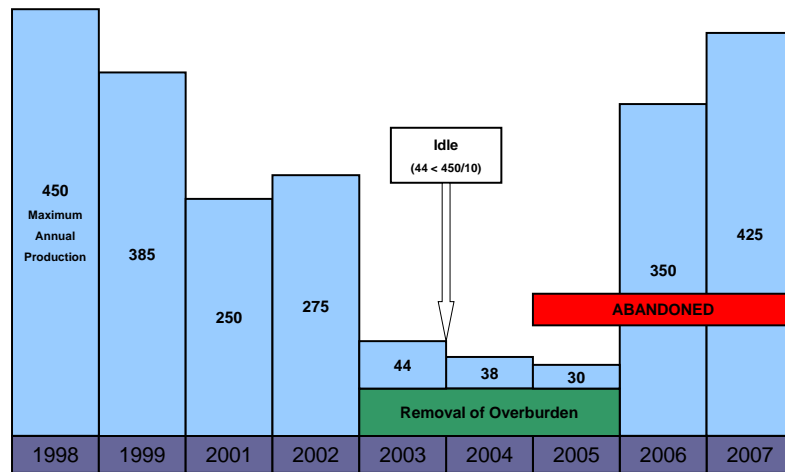


Figure 8. Hypothetical scenario illustrating continued surface mining activity unrelated to production.

The episodic use of borrow pits are illustrated in Figure 9, and shows how an IMP may be required on a periodic or episodic basis.

Borrow Pits

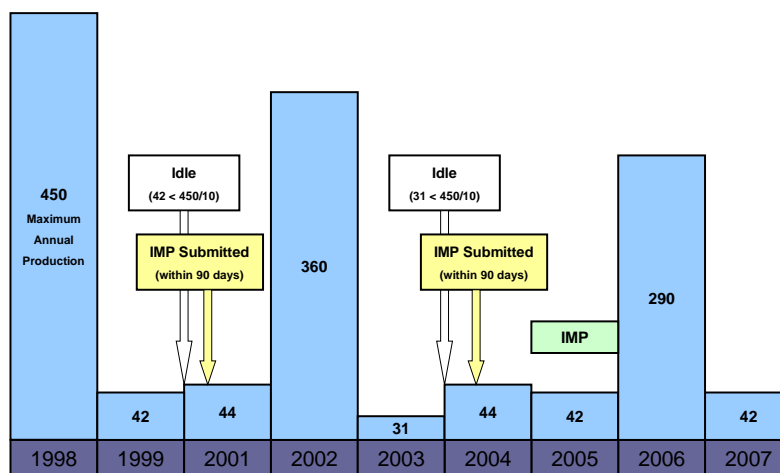


Figure 9. Hypothetical scenario for borrow pits.

A hypothetical scenario considering baseline maximum annual production amounts is illustrated in Figure 10.

Baseline Maximum Annual Production Amount

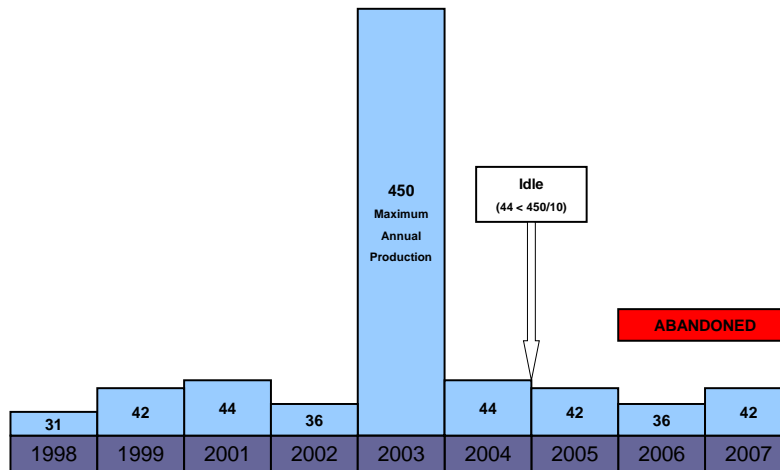


Figure 10. Hypothetical scenario considering baseline maximum annual production amounts.

operations to become abandoned, even if there was an intent to resume mining (Figure 11). SMARA does not provide a mechanism for a surface mining operation to go from abandoned back to idle or active status.

Late IMP Submission

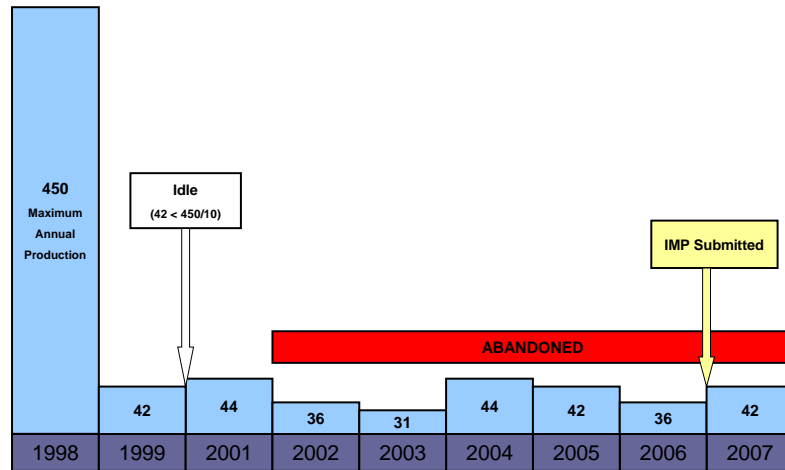


Figure 11. Hypothetical considerations pertaining to the late submittal of an IMP.

Long-term abandonment can also result an appreciable number of surface mining operations to become abandoned.

Long-Term Abandonment

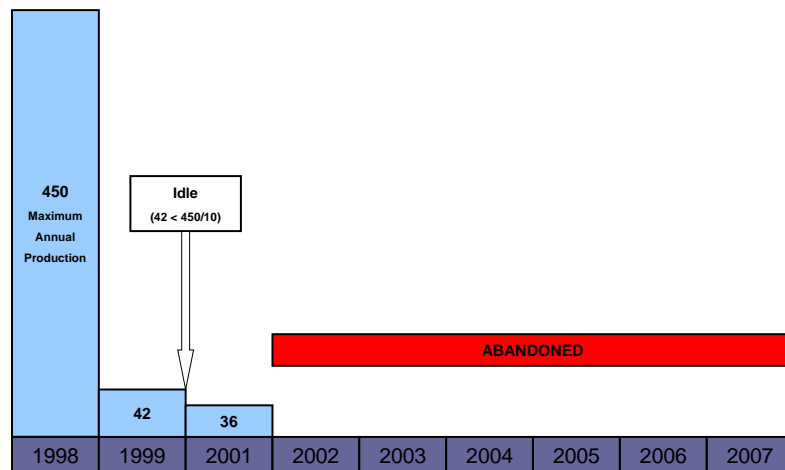


Figure 12. Hypothetical scenario considering long-term abandonment.

DISCUSSION

Lack of operator adherence to statutory requirements can result in many surface mining operations becoming abandoned even if such operations had an intent to resume mining. Availability of mineral production information is critical for a lead agency to determine whether a site has become idle or not. The current definition of “idle” relies solely on production. This eliminates any discretion of the lead agency in making a determination of idle status. The threshold established in SMARA for idle status does not account for production spikes or planned episodic mining.

The intent of the law is to ensure that truly abandoned mines are reclaimed, and truly active mines can continue to operate.

CONCLUSIONS

The following conclusions are offered:

- 100 mines reported as “Active” but with zero production in both 2008 and 2009. Statute defines these mines as “abandoned” at this point. 80 of these mines had no production for at least ten years.
- Another 66 mines reported as “Closed- No Intent to Resume” in 2009, but have not yet reclaimed.
- Currently, 97 mines should have IMPs but only 35 have them, and 35 lead agencies (more than 28% of all lead agencies in California) had mines that required IMPs but did not have them in place.
- The current definition of “idle” relies solely on production. This eliminates any discretion of the lead agency in making a determination of idle status. Once a site is deemed abandoned through process of law, the lead agency does not have the authority to approve IMPs, or confer an active status on the surface mining operation. At that point, statute requires that the mine be reclaimed in accordance with the approved reclamation plan. In order to legally operate, it may be feasible for the mine operator to apply for and be granted a new use permit, obtain a new approved reclamation plan, and post a revised financial assurance.
- Lack of operator compliance with SMARA’s idle mine requirements, and lack of IMP monitoring by SMARA lead agencies has resulted in many surface mining operations becoming statutorily abandoned, even if such operations had an intent to resume mining.

- A central problem in the idle mine discussion is that the majority of idle mines have had no production, or perhaps very marginal production in the distant past. It appears that these mines may be claiming idle status, or even active status, solely to avoid reclamation- the very reason that a limit was put on idle status. It is possible that these abandoned mines may currently be causing health, safety or environmental problems.
- Although lead agencies are required under SMARA to compel reclamation of these clearly abandoned mines, or seize the financial assurance to complete reclamation themselves, none have done so in nineteen years. Part of this reluctance may be because reclamation plans for these old mines are obviously inadequate, and that the financial assurances on the sites are also inadequate.
- Pursuant to current law, lead agencies must require reclamation of approximately 235 mines statewide.

RECOMMENDATIONS

- To provide clarity as to the current intent and statutory requirements for idle mines, the SMGB should consider a revision to its Guidelines for Idle Mines to include additional scenarios.
- The SMGB should consider recommendations for legislative action to provide relief to operators that failed to follow statutory requirements for IMPs.
- Consider recommending that OMR maintain a list on their website which includes all mines that are currently active or idle. This would leave little doubt as to whether a surface mining operation may be deemed abandoned.
- The SMGB should request from the OMR a list of abandoned mines for each SMARA lead agency. This would facilitate SMGB oversight of local SMARA lead agencies. The SMGB may also consider assumption of SMARA responsibilities where lead agency compliance is not adequate.

APPENDIX A

SMGB's Principles for Idle Mines

APPENDIX B

SMGB's IMP Form